

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DEBRA D. PATSIOS,

Plaintiff,

vs.

CAROLYN W. COLVIN, Acting
Commissioner of the Social Security
Administration,

Defendant.

4:13-CV-3134

MEMORANDUM AND ORDER

This matter is before the Court upon the plaintiff's motion for attorney fees (filing 32) pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). Plaintiff has requested fees in the amount of \$5,318.60, representing 28 hours of work at \$189.95 an hour.¹ Defendant does not object to this request. Filing 35.

The Court has determined that the plaintiff was the prevailing party in this action, as this case was remanded to the Commissioner for further action. The Court further finds that the position of the Commissioner was not substantially justified, for the reasons set forth in the Court's previous Memorandum and Order (filing 30). See *Koss v. Sullivan*, 982 F.2d 1226 (8th Cir. 1993). Finally, the Court finds that the motion for fees was filed in a timely fashion, and that the fees the parties have agreed to are reasonable—with a slight modification. Plaintiff's arithmetic is a bit off, and the properly calculated hourly rate in this case is \$187.54 an hour, resulting in a total award of \$5,251.12.² Plaintiff is entitled to an award of attorney fees in that amount. Therefore,

IT IS ORDERED:

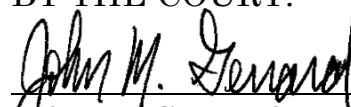
¹ Plaintiff has presented uncontested evidence that a cost-of-living increase is warranted (filing 33-4). See, § 2412(d)(2)(A)(ii); *Johnson v. Sullivan*, 919 F.2d 503, 505 (8th Cir. 1990).

² Plaintiff calculated the difference between the consumer price index for March 1996 (155.7) and July 2015 (233.596) as 80.896. Filing 34 at 6. In fact, the difference between these figures is 77.896.

1. The plaintiff's motion for attorney fees (filing 32) is granted.
2. By separate document, the Court shall enter judgment for plaintiff and against defendant providing that plaintiff is awarded attorney fees of \$5,251.12.

Dated this 19th day of June, 2015.

BY THE COURT:

A handwritten signature in black ink, appearing to read "John M. Gerrard", is written over a horizontal line.

John M. Gerrard
United States District Judge